MONTANA LEGISLATIVE HISTORY

Chapter 9 ~~19~~ 2000 May Sp Session

Bill H 7 S _____ Original bill & history ✓C

H. Committee on Taxation		S. Committee on Taxation	
Hearing Date(s) 5-10	✓C	Hearing Date(s) 5-11	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Montana Legislative Branch

Montana Legislature

Detailed Bill Information

2000 Session

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Bill Draft Number: LC0022 Current Bill Text
Bill Type - Number: HB 7 Fiscal Note
Short Title: Submit repeal of state inheritance tax to electors
Primary Sponsor: Cindy Younkin

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 40

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
(H) Chapter Number Assigned 9	05/19/2000			
(S) Signed by President	05/18/2000			
(H) Signed by Speaker	05/17/2000			
(H) Returned from Enrolling	05/11/2000			
(H) Sent to Enrolling	05/11/2000			
(H) 3rd Reading Passed as Amended by Senate	05/11/2000	70	28	
(H) 2nd Reading Senate Amendments Concurred	05/11/2000	70	28	
(S) Returned to House with Amendments	05/11/2000			
(S) 3rd Reading Concurred	05/11/2000	26	24	
(S) Scheduled for 3rd Reading	05/11/2000			
(S) 2nd Reading Concurred	05/11/2000	26	24	
(S) Scheduled for 2nd Reading	05/11/2000			
(S) Committee Report--Bill Concurred as Amended	05/11/2000			(S) Select Committee on Taxation
(S) Committee Executive Action--Bill Concurred as Amended	05/11/2000	7	5	(S) Select Committee on Taxation
(S) Hearing	05/11/2000			(S) Select Committee on Taxation
(S) Referred to Committee	05/11/2000			(S) Select Committee on Taxation
(S) First Reading	05/11/2000			
(H) Transmitted to Senate	05/10/2000			
(H) Motion Carried	05/10/2000			
(H) 3rd Reading Passed	05/10/2000	68	32	

(H) 2nd Reading Passed	05/10/2000	68	32	
(H) Committee Report--Bill Passed as Amended	05/10/2000			(H) Taxation
(H) Committee Executive Action--Bill Passed as Amended	05/10/2000	15	8	(H) Taxation
(H) Fiscal Note Printed	05/10/2000			
(H) Hearing	05/10/2000			(H) Taxation
(C) Introduced Bill Text Available Electronically	05/09/2000			
(H) Referred to Committee	05/09/2000			(H) Taxation
(H) First Reading	05/09/2000			
(H) Introduced	05/09/2000			
(C) Draft Delivered to Requester	05/08/2000			
(C) Draft Ready for Delivery	05/08/2000			
(C) Pre-Introduction Letter Sent	05/05/2000			
(C) Draft in Assembly/Executive Director Review	05/05/2000			
(C) Draft in Final Drafter Review	05/05/2000			
(C) Draft in Input/Proofing	05/05/2000			
(C) Bill Draft Text Available Electronically	05/05/2000			
(C) Draft in Legal Review	05/04/2000			
(C) Draft to Requester for Review	05/04/2000			
(C) Fiscal Note Needed	05/04/2000			
(C) Draft Request Received	05/03/2000			

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Jore	Rick	
Drafter	Petesch	Greg	
Primary Sponsor	Younkin	Cindy	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Estates and Trusts		Simple	EST
Referendum		Simple	REF
Taxation (Generally)		Simple	TX

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Additional Bill Information

Probable Fiscal Note: Yes
Preintroduction Required: N
Session Law Ch. Number: 9
DEADLINE
Category: Revenue Bills
Transmittal Date: 05/13/2000
Return (with 2nd house amendments) Date: 05/13/2000

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	07-NOV-00	Upon approval by the Electorate

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

07/19/2000 12:07 PM Mountain Time
Look Up Bill Information	Committee and Hearing Information
Current House Agenda	House Journals	Daily House Floor Actions
Current Senate Agenda	Senate Journals	Daily Senate Floor Actions
Legislator Information	Reports Directories

| *Legislative Branch Home Page* | *Current Session Home Page* |
Help | *Webmaster@theBranch*

This Web Site is best viewed using an Internet browser which supports JavaScript. If desired, download one now.

*NOTE: Make sure the browser's Preference Settings are set in order to **accept Cookies!***

MONTANA ONLINE

HOUSE BILL NO. 7

INTRODUCED BY R. JORE

A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING STATE INHERITANCE TAXES; PROVIDING THAT STATE ESTATE AND GENERATION-SKIPPING TAXES APPLY TO THE EXTENT OF THE APPLICABLE FEDERAL CREDIT FOR EACH TAX; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 7-4-2613, 7-7-4607, 7-14-4654, 15-1-211, 15-1-406, 15-1-501, 15-1-503, 15-30-136, 17-5-718, 17-5-930, 17-5-1518, 17-5-1629, 35-21-827, 60-11-1110, 60-11-1210, 72-1-103, 72-3-607, 72-3-618, 72-3-631, 72-3-807, 72-3-1004, 72-3-1006, 72-3-1104, 72-16-215, 72-16-502, 72-16-503, 72-16-903, 72-16-904, 72-16-905, 72-16-907, 72-16-909, 72-16-1007, 80-12-305, AND 90-6-125, MCA; REPEALING SECTIONS 72-4-304, 72-14-303, 72-16-101, 72-16-102, 72-16-201, 72-16-203, 72-16-204, 72-16-205, 72-16-206, 72-16-207, 72-16-208, 72-16-209, 72-16-210, 72-16-211, 72-16-212, 72-16-213, 72-16-214, 72-16-216, 72-16-218, 72-16-301, 72-16-302, 72-16-303, 72-16-304, 72-16-305, 72-16-306, 72-16-307, 72-16-308, 72-16-311, 72-16-312, 72-16-313, 72-16-314, 72-16-315, 72-16-316, 72-16-317, 72-16-318, 72-16-319, 72-16-321, 72-16-322, 72-16-323, 72-16-331, 72-16-332, 72-16-333, 72-16-334, 72-16-335, 72-16-336, 72-16-337, 72-16-338, 72-16-339, 72-16-340, 72-16-341, 72-16-342, 72-16-343, 72-16-344, 72-16-345, 72-16-346, 72-16-347, 72-16-348, 72-16-349, 72-16-401, 72-16-402, 72-16-403, 72-16-411, 72-16-412, 72-16-413, 72-16-414, 72-16-415, 72-16-416, 72-16-417, 72-16-418, 72-16-419, 72-16-420, 72-16-421, 72-16-422, 72-16-423, 72-16-424, 72-16-425, 72-16-431, 72-16-432, 72-16-433, 72-16-434, 72-16-435, 72-16-436, 72-16-437, 72-16-438, 72-16-439, 72-16-440, 72-16-441, 72-16-442, 72-16-443, 72-16-445, 72-16-446, 72-16-447, 72-16-448, 72-16-449, 72-16-450, 72-16-451, 72-16-452, 72-16-453, 72-16-454, 72-16-455, 72-16-456, 72-16-457, 72-16-458, 72-16-459, 72-16-460, 72-16-461, 72-16-462, 72-16-463, 72-16-464, 72-16-465, 72-16-471, 72-16-472, 72-16-473, 72-16-474, 72-16-475, 72-16-476, 72-16-477, 72-16-478, 72-16-479, 72-16-480, 72-16-481, 72-16-482, 72-16-491, 72-16-492, 72-16-493, 72-16-504, 72-16-505, 72-16-701, 72-16-702, 72-16-703, 72-16-704, 72-16-705, 72-16-706, 72-16-801, 72-16-802, 72-16-803, 72-16-804, 72-16-805, AND 72-16-902, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2613, MCA, is amended to read:

"7-4-2613. Documents subject to recording. The county clerk shall, upon the payment of the appropriate fees, record by printing, typewriting, or photographic, micrographic, or electronic process or by the use of prepared blank forms:

(1) (a) subject to subsection (1)(b), deeds, grants, transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property any part of which is situated in the county, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, leases that have been acknowledged or proved, and abstracts of the instruments that have been acknowledged or proved;

(b) an instrument or deed evidencing either a division of real property or a merger of real property only if the instrument or deed is accompanied by a certification from the county treasurer that taxes and special assessments that have been assessed and levied have been paid;

(2) notices of buyer's interest in real property, notwithstanding any other requirement of law or rule relating to eligibility for recording of the deed, contract for deed, or other document relating to the notice of buyer's interest. However, if the instrument of conveyance underlying a notice of buyer's interest would be unrecordable, the clerk and recorder shall notify the buyer by certified mail that the underlying instrument is unrecordable and may be void;

(3) except as provided in 72-16-503, a document on a form provided by the department of revenue certifying that the holder of a nonprobate interest in real property is deceased and that the deceased's interest is terminated. A nonprobate interest in real property is a joint tenancy interest, a life estate interest, or any other interest not requiring probate. The document may be on the form used by the department of revenue for responding to the application for determination of ~~inheritance or~~ estate tax. It must contain:

(a) a statement that the holder of the nonprobate interest has died and that the holder's interest in the property is terminated;

(b) a certification by the county treasurer that the ~~inheritance or~~ estate tax, if any tax was due, has been paid or that ~~inheritance or~~ estate tax was not due;

(c) a description of the property;

(4) certificates of births and deaths;

(5) wills devising real estate admitted to probate;

(6) official bonds;

(7) transcripts of judgments that by law are made liens upon real estate;

(8) instruments describing or relating to the individual property of married persons;

(9) all orders and decrees made by the district court in probate matters affecting real estate and that are required to be recorded;

(10) notice of preemption claims;

(11) notice and declaration of water rights;

(12) assignments for the benefit of creditors;

(13) affidavits of annual work done on mining claims;

(14) notices of mining locations and declaratory statements;

(15) estrays and lost property;

(16) a book containing appraisement of state lands; and

(17) other writings that are required or permitted by law to be recorded."

Section 2. Section 7-7-4607, MCA, is amended to read:

"7-7-4607. Exemption from certain taxes for refunding revenue bonds. ~~The refunding~~ Refunding bonds issued pursuant to this part and the income ~~therefrom shall be~~ from those bonds are exempt from taxation, except ~~inheritance,~~ estate~~, and transfer~~ taxes."

Section 3. Section 7-14-4654, MCA, is amended to read:

"7-14-4654. Exemption from certain state taxes. ~~All such revenue~~ Revenue bonds issued pursuant to this part and the interest or income ~~therefrom~~ from those bonds are exempt from all taxation in this state, other than ~~gift, inheritance, and~~ estate taxes."

Section 4. Section 15-1-211, MCA, is amended to read:

"15-1-211. Uniform dispute review procedure -- notice -- appeal. (1) The department ~~of revenue~~ shall provide a uniform review procedure for all persons or other entities, except as provided in subsection (1)(a).

(a) The department's dispute review procedure must be adopted by administrative rule and applies to all matters administered by the department and to all issues arising from the administration of the department, except ~~inheritance taxes,~~ estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between the person or other entity and individuals subjecting the person or other entity to the requirements of chapter 30, part 2, or whether the employment relationship was that of an independent contractor. The procedure applies to assessments of centrally assessed property taxed pursuant to chapter 23.

(b) (i) The term "other entity", as used in this section, includes all businesses, corporations, and similar enterprises.

(ii) The term "person" as used in this section includes all individuals.

(2) (a) Persons or other entities having a dispute with the department have the right to have the dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures such as mediation.

(b) The department shall establish a dispute resolution office to resolve disputes between the department and persons or other entities.

(c) Disputes must be resolved by a final department decision within 180 days of the referral to the dispute resolution office, unless extended by mutual consent of the parties. If a final department decision is not issued within the required time period, the remedy is an appeal to the appropriate forum as provided by law.

(3) (a) The department shall provide written notice to a person or other entity advising them of a dispute over matters administered by the department.

(b) The person or other entity shall have the opportunity to resolve the dispute with the department employee who is responsible for the notice, as indicated on the notice.

(c) If the dispute cannot be resolved, either the department or the other party may refer the dispute to the dispute resolution office.

(d) The notice must advise the person or other entity of their opportunity to resolve the dispute with the person responsible for the notice and their right to refer the dispute to the dispute resolution office.

(4) Written notice must be sent to the persons or other entities involved in a dispute with the department indicating that the matter has been referred to the dispute resolution office. The written notice

must include:

(a) a summary of the department's position regarding the dispute;

(b) an explanation of the right to the resolution of the dispute with a clear description of all procedures and options available;

(c) the right to obtain a final department decision within 180 days of the date that the dispute was referred to the dispute resolution office;

(d) the right to appeal should the department fail to meet the required deadline for issuing a final department decision; and

(e) the right to have the department consider alternative dispute resolution methods, including mediation.

(5) The department shall:

(a) develop guidelines that must be followed by employees of the department in dispute resolution matters;

(b) develop policies concerning the authority of an employee to resolve disputes; and

(c) establish procedures for reviewing and approving disputes resolved by an employee or the dispute resolution office.

(6) (a) (i) The director of revenue or the director's designee is authorized to enter into an agreement with a person or other entity relating to a matter administered by the department.

(ii) The director or the director's designee has no authority to bind a future legislature through the terms of an agreement.

(b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded."

Section 5. Section 15-1-406, MCA, is amended to read:

"15-1-406. Declaratory judgment. (1) An aggrieved taxpayer may bring a declaratory judgment

action in the district court seeking a declaration that:

(a) an administrative rule or method or procedure of assessment or imposition of tax adopted or used by the department ~~of revenue~~ is illegal or improper; or

(b) a tax authorized by the state or one of its subdivisions was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax.

(2) The action must be brought within 90 days of the date the notice of the tax due was sent to the taxpayer or, in the case of an assessment covered by the uniform dispute review procedure set forth in 15-1-211, within 90 days of the date of the department director's final decision. The court shall consolidate all actions brought under subsection (1) that challenge the same tax. The decision of the court applies to all similarly situated taxpayers, except those taxpayers who are excluded under 15-1-407.

(3) The taxes that are being challenged under this section must be paid under protest when due as a condition of continuing the action. Property taxes are paid under protest as provided in 15-1-402. All other taxes administered by the department, except ~~inheritance and~~ estate taxes, are paid under protest by filing timely claims for refund and by following the uniform dispute review procedures of 15-1-211. ~~Inheritance and estate taxes are paid under protest by following the procedures set forth in Title 72.~~

(4) The remedy authorized by this section may not be used to challenge the:

(a) market value of property under a property tax unless the challenge is to the legality of a particular methodology that is being applied to similarly situated taxpayers; or

(b) legality of a tax other than a property tax~~, inheritance tax,~~ or estate tax unless the review pursuant to 15-1-211 has been completed.

(5) The remedy authorized by this section is the exclusive method of obtaining a declaratory judgment concerning a tax authorized by the state or one of its subdivisions. The remedy authorized by this section supersedes the Uniform Declaratory Judgments Act established in Title 27, chapter 8. This section does not affect actions for declaratory judgments under 2-4-506."

Section 6. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

(a) income taxes, interest, and penalties collected under chapter 30;

(b) except as provided in 15-31-702, all taxes, interest, and penalties collected under chapter 31;

(c) oil and natural gas production taxes allocated under 15-36-324(8)(a) and (10)(a);

(d) electrical energy producer's license taxes under chapter 51;

(e) [an amount equal to 25% of] the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;

(f) liquor license taxes under Title 16;

(g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(h) ~~inheritance and~~ estate taxes under Title 72, chapter 16; and

(i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803.

(2) The department ~~of revenue~~ shall also deposit to the credit of the state general fund all money received from the collection of license taxes and fees and all net revenue and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded."

Section 7. Section 15-1-503, MCA, is amended to read:

"**15-1-503. Refund of overpayment -- procedure.** (1) When there has been an overpayment of the ~~inheritance~~ estate tax collected by county treasurers or any other tax collected by the department ~~of revenue~~ and there is no law providing for a refund, the department shall refund the amount of the overpayment to the taxpayer, plus any interest and penalty due the taxpayer, as provided in subsection (2) ~~of this section~~.

(2) ~~No~~ A refund or payment ~~shall be~~ is not allowed unless a claim is filed by the taxpayer before

the expiration of 5 years from the time that the tax was paid. Within 6 months after the claim is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund ~~shall~~ must be made to the taxpayer within 60 days after the claim is approved~~;~~. ~~if~~ If the claim is disallowed, the department shall ~~so~~ notify the taxpayer and shall grant a hearing on the claim. If the department disapproves a claim after holding a hearing, the determination of the department may be reviewed as provided by 15-30-148."

Section 8. Section 15-30-136, MCA, is amended to read:

"15-30-136. Computation of income of estates or trusts -- exemption. (1) Except as otherwise provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in the ~~taxable~~ tax year, including but not limited to the following items:

(a) dividends;

(b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other political subdivision of the state, but excluding interest income from obligations of:

(i) the United States government or the state of Montana;

(ii) a school district; or

(iii) a county, municipality, district, or other political subdivision of the state;

(c) income from partnerships and other fiduciaries;

(d) gross rents and royalties;

(e) gain from sale or exchange of property, including those gains that are excluded from gross income for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954, as amended;

(f) gross profit from trade or business; and

(g) refunds recovered on federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability.

(2) In computing net income, there are allowed as deductions:

(a) interest expenses deductible for federal tax purposes according to section 163 of the Internal Revenue Code of 1954, as amended;

(b) taxes paid or accrued within the ~~taxable~~ tax year, including but not limited to federal income

tax, but excluding Montana income tax;

(c) that fiduciary's portion of depreciation or depletion ~~which~~ that is deductible for federal tax purposes according to sections 167, 611, and 642 of the Internal Revenue Code of 1954, as amended;

(d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of the Internal Revenue Code of 1954, as amended;

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended~~, if the expenses were not claimed as a deduction in the determination of Montana inheritance tax~~;

(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

(h) Montana income tax refunds or tax refund credits.

(3) The following additional deductions are allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the ~~taxable~~ tax year currently required to be distributed to beneficiaries for the year;

(b) any other amounts properly paid or credited or required to be distributed for the ~~taxable~~ tax year.

(4) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and (6)."

Section 9. Section 17-5-718, MCA, is amended to read:

"17-5-718. Tax exemption of bonds -- legal investments. (1) All bonds or notes issued under this part, their transfer, and their income, including any profits made on their sale, are exempt from taxation by the state or any political ~~subdivisions~~ subdivision or other instrumentality of the state, ~~excepting inheritance,~~ except for estate~~, and gift~~ taxes.

(2) Bonds or notes issued under this part are legal investments for any person or board charged

with investment of public funds and are acceptable as security for any deposit of public money."

Section 10. Section 17-5-930, MCA, is amended to read:

"**17-5-930. Tax exemption of bonds -- legal investments.** (1) All bonds issued under this part, their transfer, and their income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, ~~excepting inheritance,~~ except for estate~~, and gift~~ taxes.

(2) Bonds issued under this part are legal investments for any person or board charged with investment of public funds and are acceptable as security for any deposit of public money."

Section 11. Section 17-5-1518, MCA, is amended to read:

"**17-5-1518. Tax exemption of bonds.** Bonds, notes, or other obligations issued by the board under this part and their transfer and income (including any profits made on their sale) are free from taxation by the state or any political subdivision or other instrumentality of the state, except for ~~inheritance,~~ estate~~, and gift~~ taxes. The board is not required to pay recording or transfer fees or taxes on instruments recorded by it."

Section 12. Section 17-5-1629, MCA, is amended to read:

"**17-5-1629. Tax exemption of bonds.** Bonds, notes, or other obligations issued by the board under this part, their transfer, and their income (including any profits made on their sale) are free from taxation by the state or any political subdivision or other instrumentality of the state, ~~excepting inheritance,~~ except for estate~~, and gift~~ taxes. The board is not required to pay recording or transfer fees or taxes on instruments recorded by it."

Section 13. Section 35-21-827, MCA, is amended to read:

"**35-21-827. Property interests in plot -- ~~inheritance~~ estate tax.** (1) All plots conveyed to individuals are presumed to be the sole and separate property of the owner named in the instrument of conveyance.

(2) The spouse of an owner of a plot containing more than one interment space has a vested right to be interred in the plot, and a person becoming the spouse of the plot owner has a vested right to be

interred in the plot if an interment space not subject to the vested right of interment for previous spouses is unoccupied at the time that the person becomes the spouse of the owner.

(3) A conveyance or other action of the owner without the written consent or joinder of the spouse of the owner may not divest the spouse of a vested right of interment, except that a final decree of dissolution of marriage between the owner and the spouse terminates the vested right of interment unless otherwise provided in the decree.

(4) If an interment is not made in a plot that has been transferred by deed or certificate of ownership to an individual owner or if all remains previously interred in the plot are lawfully removed, the plot descends upon the death of the owner to the owner's heirs-at-law, subject to the rights of interment of the decedent and the owner's surviving spouse unless the owner has disposed of the plot either in a will by a specific devise or by a written declaration filed and recorded in the office of the mausoleum-columbarium authority.

(5) Mausoleum or columbarium property passing to an individual by reason of the death of the owner is exempt from all ~~inheritance~~ estate taxes."

Section 14. Section 60-11-1110, MCA, is amended to read:

"**60-11-1110. Tax exemption.** Bonds and refunding bonds, their transfer, and their income (including any profits made on their sale) are free from taxation by the state or any political subdivision or instrumentality of the state, except for ~~inheritance and~~ estate taxes."

Section 15. Section 60-11-1210, MCA, is amended to read:

"**60-11-1210. Tax exemption.** Bonds and refunding bonds, their transfer, and their income (including any profits made on their sale) are free from taxation by the state or any political subdivision or instrumentality of the state, except for ~~inheritance and~~ estate taxes."

Section 16. Section 72-1-103, MCA, is amended to read:

"**72-1-103. General definitions.** Subject to additional definitions contained in the subsequent chapters that are applicable to specific chapters, parts, or sections and unless the context otherwise requires, in chapters 1 through 5, the following definitions apply:

(1) "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an

individual authorized to make decisions concerning another's health care, and an individual authorized to make decisions for another under a natural death act.

(2) "Application" means a written request to the clerk for an order of informal probate or appointment under chapter 3, part 2.

(3) "Beneficiary", as it relates to:

(a) a trust beneficiary, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer;

(b) a charitable trust, includes any person entitled to enforce the trust;

(c) a beneficiary of a beneficiary designation, refers to a beneficiary of:

(i) an account with POD designation or a security registered in beneficiary form (TOD); or

(ii) any other nonprobate transfer at death; and

(d) a beneficiary designated in a governing instrument, includes a grantee of a deed; a devisee; a trust beneficiary; a beneficiary of a beneficiary designation; a donee; and a person in whose favor a power of attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

(4) "Beneficiary designation" refers to a governing instrument naming a beneficiary of:

(a) an account with POD designation or a security registered in beneficiary form (TOD); or

(b) any other nonprobate transfer at death.

(5) "Child" includes an individual entitled to take as a child under chapters 1 through 5 by intestate succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

(6) (a) "Claims", in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate that arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration.

(b) The term does not include estate ~~or inheritance~~ taxes or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(7) "Clerk" or "clerk of court" means the clerk of the district court.

(8) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

(9) "Court" means the district court in this state having jurisdiction in matters relating to the affairs

of decedents.

(10) "Descendant" of an individual means all of the individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this section.

(11) "Devise" when used as a noun means a testamentary disposition of real or personal property and when used as a verb means to dispose of real or personal property by will.

(12) "Devisee" means a person designated in a will to receive a devise. For purposes of chapter 3, in the case of a devise to an existing trust or trustee or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(13) "Disability" means cause for a protective order as described by 72-5-409.

(14) "Distributee" means any person who has received property of a decedent from the decedent's personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment ~~thereto~~ to distributed assets remaining in the trustee's hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(15) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to chapters 1 through 5 as originally constituted and as it exists from time to time during administration.

(16) "Exempt property" means that property of a decedent's estate that is described in 72-2-413.

(17) "Fiduciary" includes a personal representative, guardian, conservator, and trustee.

(18) "Foreign personal representative" means a personal representative appointed by another jurisdiction.

(19) "Formal proceedings" means proceedings conducted before a judge with notice to interested persons.

(20) "Governing instrument" means a deed; will; trust; insurance or annuity policy; account with POD designation; security registered in beneficiary form (TOD); pension, profit-sharing, retirement, or similar benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or dispositive, appointive, or nominative instrument of any similar type.

(21) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person

pursuant to testamentary or court appointment but excludes one who is merely a guardian ad litem.

(22) "Heirs", except as controlled by 72-2-721, means persons, including the surviving spouse and the state, who are entitled under the statutes of intestate succession to the property of a decedent.

(23) "Incapacitated person" has the meaning provided in 72-5-101.

(24) "Informal proceedings" means proceedings conducted without notice to interested persons by the clerk of court for probate of a will or appointment of a personal representative.

(25) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. The term also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of and matter involved in any proceeding.

(26) "Issue" of a person means a descendant ~~as defined in subsection (10)~~.

(27) "Joint tenants with the right of survivorship" includes co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others but excludes forms of co-ownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

(28) "Lease" includes an oil, gas, coal, or other mineral lease.

(29) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(30) "Minor" means a person who is under 18 years of age.

(31) "Mortgage" means any conveyance, agreement, or arrangement in which property is used as security.

(32) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of death.

(33) "Organization" means a corporation, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity.

(34) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under chapters 1 through 5 by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(35) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

(36) "Person" means an individual, a corporation, an organization, or other legal entity.

(37) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

(38) "Petition" means a written request to the court for an order after notice.

(39) "Proceeding" includes action at law and suit in equity.

(40) "Property" includes both real and personal property or any interest in that property and means anything that may be the subject of ownership.

(41) "Protected person" has the meaning provided in 72-5-101.

(42) "Protective proceeding" has the meaning provided in 72-5-101.

(43) "Security" includes any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; collateral trust certificate; transferable share; voting trust certificate; in general, any interest or instrument commonly known as a security; any certificate of interest or participation; or any temporary or interim certificate, receipt, or certificate of deposit for or any warrant or right to subscribe to or purchase any of the foregoing.

(44) "Settlement", in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

(45) "Special administrator" means a personal representative as described by chapter 3, part 7.

(46) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(47) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(48) "Successors" means persons, other than creditors, who are entitled to property of a decedent under the decedent's will or chapters 1 through 5.

(49) "Supervised administration" refers to the proceedings described in chapter 3, part 4.

(50) "Survive" means that an individual has neither predeceased an event, including the death of

another individual, nor is considered to have predeceased an event under 72-2-114 or 72-2-712. The term includes its derivatives, such as "survives", "survived", "survivor", and "surviving".

(51) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(52) "Testator" includes an individual of either sex.

(53) "Trust" includes an express trust, private or charitable, with additions ~~thereto~~ to the trust, wherever and however created. The term also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. The term excludes other constructive trusts and excludes resulting trusts; conservatorships; personal representatives;trust accounts as defined in 72-6-111 and Title 72, chapter 6, parts 2 and 3; custodial arrangements pursuant to chapter 26 ~~of this title~~; business trusts providing for certificates to be issued to beneficiaries; common trust funds; voting trusts; security arrangements; liquidation trusts; trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; and any arrangement under which a person is nominee or escrowee for another.

(54) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(55) "Ward" means an individual described in 72-5-101.

(56) "Will" includes codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession."

Section 17. Section 72-3-607, MCA, is amended to read:

"**72-3-607. Inventory -- appraisal -- copy to department of revenue.** (1) ~~Within~~ If the estate must file a United States estate tax return, within the time required for the filing of ~~a~~ the United States estate tax return plus any extensions granted by the internal revenue service, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file or mail an inventory~~;~~. ~~which~~ The inventory ~~shall~~ must include a listing of all property ~~which~~ that:

(a) the decedent owned, had an interest in or control over, individually, in common, or jointly, or otherwise had at the time of ~~his~~ the decedent's death;

(b) the decedent had possessory or dispository rights over at the time of ~~his~~ death or had disposed

of for less than its fair market value within 3 years of ~~his~~ the decedent's death; or

(c) was affected by the decedent's death for the purpose of ~~inheritance or~~ estate taxes.

(2) The inventory ~~shall~~ must include a statement of the full and true value of the decedent's interest in every item listed in ~~such~~ the inventory. In this connection, the personal representative shall appoint one or more qualified and disinterested persons to assist ~~him~~ the personal representative in ascertaining the fair market value as of the date of the decedent's death of all assets included in the estate. Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any appraiser ~~shall~~ must be indicated on the inventory with the item or items ~~he~~ appraised.

(3) The personal representative shall send a copy of the inventory to interested persons who request it, or ~~he~~ the personal representative may file the original of the inventory with the court. In any event, a copy of the inventory and statement of value ~~shall~~ must be mailed to the department of revenue."

Section 18. Section 72-3-618, MCA, is amended to read:

"72-3-618. Persons dealing with personal representative -- protection. (1) A person who in good faith and without notice either assists a personal representative or deals with ~~him~~ a personal representative for value is protected as if the personal representative properly exercised ~~his~~ the personal representative's power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of supervised personal representatives ~~which~~ that are endorsed on letters as provided in 72-3-404(3), ~~no~~ a provision in any will or order of court purporting to limit the power of a personal representative is not effective except as to persons with actual knowledge ~~thereof~~ of the provision.

(2) A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative.

(3) The protection ~~here~~ expressed in this section extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection ~~here~~ expressed in this section is not ~~by~~ a substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries~~, nor does it in any way limit the provisions of 72-16-432 and 72-16-433~~."

Section 19. Section 72-3-631, MCA, is amended to read:

"72-3-631. Compensation of personal representative. (1) A personal representative is entitled to reasonable compensation for ~~his~~ services. ~~Such~~ The compensation ~~shall~~ may not exceed 3% of the first $40,000 of the value of the estate as reported for federal estate tax ~~or state inheritance tax~~ purposes~~, whichever is larger,~~ and 2% of the value of the estate in excess of $40,000 as reported for federal estate tax ~~or state inheritance tax~~ purposes~~, whichever is larger~~. However, a personal representative is entitled to a minimum compensation of the lesser of $100 or the value of the gross estate.

(2) In proceedings conducted for the termination of joint tenancies, the compensation of the personal representative ~~shall~~ may not exceed 2% of the interest passing.

(3) In proceedings conducted for the termination of a life estate, the compensation allowed the personal representative ~~shall~~ may not exceed 2% of the value of the life estate if it is terminated in connection with a probate or joint tenancy termination. If a life estate is terminated separately, the personal representative's compensation ~~shall~~ may not exceed 2% of the value of the estate, except that it ~~shall~~ may not be less than $100.

(4) If there is more than one personal representative, only one compensation is allowed.

(5) The court may allow additional compensation for extraordinary services. ~~Such~~ The additional compensation ~~shall~~ may not be greater than the amount ~~which~~ that is allowed for the original compensation.

(6) If the will provides for the compensation of the personal representative and there is no contract with the decedent regarding compensation, the personal representative may renounce the provision before qualifying and be entitled to compensation under the terms of this section. A personal representative also may renounce ~~his~~ the right to all or any part of the compensation. A written renunciation of fee may be filed with the court."

Section 20. Section 72-3-807, MCA, is amended to read:

"72-3-807. Classification of claims as to priority of payment. (1) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(a) costs and expenses of administration;

(b) reasonable funeral expenses and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent;

(c) federal estate and Montana state estate ~~and inheritance~~ taxes;

(d) debt for a current support obligation and past-due support for the decedent's children pursuant to a support order as defined in 40-5-201;

(e) debts with preference under federal and Montana law;

(f) other federal and Montana state taxes;

(g) all other claims.

(2) A preference may not be given in the payment of any claim over any other claim of the same class, and a claim due and payable may not be entitled to a preference over claims not due."

Section 21. Section 72-3-1004, MCA, is amended to read:

"72-3-1004. Closing estate by sworn statement of personal representative. (1) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court no earlier than 6 months after the date of original appointment of a general personal representative for the estate~~,~~ a verified statement stating that ~~he~~ the personal representative, or a prior personal representative ~~whom he has succeeded~~, has:

(a) determined that the time limitation for presentation of creditors' claims has expired;

(b) fully administered the estate of the decedent by making payment, settlement, or other disposition of all claims ~~which~~ that were presented, expenses of administration, and estate~~, inheritance,~~ and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled; if any claims remain undischarged, the statement ~~shall~~ must state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees~~,~~ or it ~~shall~~ must state in detail other arrangements ~~which~~ that have been made to accommodate outstanding liabilities; and

(c) sent a copy ~~thereof~~ of the statement to all distributees of the estate and to all creditors or other claimants of whom ~~he~~ the personal representative is aware whose claims are neither paid nor barred and has furnished a full account in writing of ~~his~~ the administration to the distributees whose interests are affected ~~thereby; and~~

~~(d) complied with the provisions of 72-3-1006~~ by the accounting.

(2) If ~~no~~ proceedings involving the personal representative are not pending in the court 1 year after the closing statement is filed, the appointment of the personal representative terminates."

Section 22. Section 72-3-1006, MCA, is amended to read:

"72-3-1006. Certificate or receipt showing taxes paid required to close estate. (1) In all probate proceedings under this code, before final distribution to successors is made and before any petition is granted under 72-3-1001, 72-3-1002, 72-3-1003, or 72-3-1004, there ~~shall~~ must have been filed with the clerk:

(a) a certificate from the department of revenue stating that any ~~inheritance~~ estate tax due on the assets of the estate has been paid; ~~or~~

(b) an agreement with the department of revenue for extension of time for payment of ~~inheritance~~ estate taxes; or

(c) a receipt from the county treasurer stating that any ~~inheritance~~ estate tax due on the assets of the estate has been paid.

(2) This section ~~shall~~ does not prohibit ~~such~~ a partial distribution ~~as~~ that may become necessary in the course of administration."

Section 23. Section 72-3-1104, MCA, is amended to read:

"72-3-1104. Small estates -- closing by sworn statement of personal representative. (1) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of 72-3-1103 by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

(a) to the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent;

(b) the personal representative has fully administered the estate by payment of ~~inheritance~~ estate taxes and by disbursing and distributing it to the persons entitled ~~thereto~~ to it; and

(c) the personal representative has sent a copy of the closing statement to all distributees of the

estate and to all creditors or other claimants of whom ~~he~~ the personal representative is aware whose claims are neither paid nor barred and has furnished a full account in writing of ~~his~~ the administration to the distributees whose interests are affected.

(2) If ~~no~~ actions or proceedings involving the personal representative are not pending in the court 1 year after the closing statement is filed, the appointment of the personal representative terminates.

(3) A closing statement filed under this section has the same effect as one filed under 72-3-1004."

Section 24. Section 72-16-215, MCA, is amended to read:

"72-16-215. County treasurer -- monthly report -- payment of collections to state treasurer -- interest on unpaid amounts. Between the 1st and 20th days of each month, each county treasurer shall make a report under oath to the department of revenue listing all payments received ~~by him~~ under the ~~inheritance~~ estate tax laws during the preceding month and stating for what estate, by whom, and when paid. The form of ~~such~~ the report ~~shall~~ must be prescribed by the department. ~~He~~ The county treasurer shall at the same time pay the state treasurer all the payments received ~~by him~~ under the ~~inheritance~~ estate tax laws and not previously paid to the state treasurer, ~~and for all such~~ For payments collected ~~by him and~~ but not paid to the state treasurer within 5 days from the time ~~herein~~ required, ~~he~~ the county treasurer shall pay interest at the rate of 10% ~~per annum~~ a year."

Section 25. Section 72-16-502, MCA, is amended to read:

"72-16-502. ~~Determination and payment of tax when no personal representative -- procedure -- exception~~ Definition of decedent. ~~(1)~~ For the purposes of this ~~section~~ part, a decedent is one who dies leaving no property that requires the appointment of a personal representative and who:

~~(a)~~(1) was the owner of a life estate that terminated at death; or

~~(b)~~(2) was the owner of property with another or others as a joint tenant with right of survivorship and not as a tenant in common; ~~or~~

~~(c) was the owner of any other interest in property requiring the determination of inheritance tax because of death~~.

~~(2) Except as provided in subsection (6), a remainderman, surviving joint tenant, or other interested party shall, upon the death of a decedent, file with the department of revenue:~~

~~(a) a copy of the death certificate;~~

~~(b) a verified application, in a form prescribed by the department, containing information that the department considers necessary; and~~

~~(c) evidence of the instruments that created the life estate, joint tenancy, or other interest requiring determination of inheritance tax, if required by the department.~~

~~(3) Upon receipt of the application, the department shall:~~

~~(a) stamp the filing date upon the application;~~

~~(b) issue a certificate showing the inheritance tax due, if any;~~

~~(c) affix the certificate to a certified copy of the application and return the certificate and copy to the applicant or the applicant's attorney; and~~

~~(d) affix a copy of the certificate to the original application and keep it on file with the department.~~

~~(4) The applicant shall pay the inheritance tax determined to the county treasurer for transmittal to the state treasurer. The county treasurer shall issue a receipt for the payment of the tax.~~

~~(5) If disputes arise as to tax computation, they must be resolved as provided under the laws applicable to the determination of inheritance taxes in estates.~~

~~(6) A surviving joint tenant described in 72-16-313(1) or (2) of a decedent whose aggregate value of the interest in the joint property is less than the federal estate tax filing requirement is not required to file under subsection (2).~~"

Section 26. Section 72-16-503, MCA, is amended to read:

"**72-16-503. Additional filings required when real property involved and no representative ~~--release of lien~~.** (1) If an interest in real property is involved under 72-16-502, the applicant shall record with the clerk and recorder of each county in which the real property or any part of the property is located a document containing those matters required by 7-4-2613(3). A surviving joint tenant described in 72-16-313(1) or (2) is not subject to the recording requirements under 7-4-2613(3).

(2) A surviving joint tenant described in 72-16-313(1) or (2) with an interest in real property under 72-16-502 shall record with the clerk and recorder of each county in which the real property is located an acknowledged statement that the holder of the nonprobate interest has died and that the holder's interest in the property is terminated. The acknowledged statement must include a legal description of the real property.

~~(3) The recording of the documents under subsection (1) or (2) constitutes release of any lien for inheritance taxes.~~"

Section 27. Section 72-16-903, MCA, is amended to read:

"**72-16-903. Taxable situs of property.** For the purpose of ~~this~~ the estate tax, the following have taxable situs ~~of property shall be the same as the taxable situs for inheritance tax purposes~~ in this state:

(1) real property located in this state;

(2) tangible personal property located in this state; and

(3) intangible personal property owned by a resident regardless of where it is located."

Section 28. Section 72-16-904, MCA, is amended to read:

"**72-16-904. Estate tax imposed.** ~~In addition to the inheritance taxes hereinabove imposed, an~~ An estate tax is ~~hereby~~ imposed upon the transfer of the estate of every decedent leaving an estate ~~which~~ that is subject to the federal estate tax imposed by the United States of America under the applicable provisions of the Internal Revenue Code and ~~which~~ that has, in whole or in part, a taxable situs in this state."

Section 29. Section 72-16-905, MCA, is amended to read:

"**72-16-905. Estate tax -- how computed.** The tax ~~hereby~~ imposed upon the transfer of each ~~such~~ estate ~~shall be~~ is equal to the maximum tax credit allowable for state death taxes against the federal estate tax imposed with respect to the portion of the decedent's estate having a taxable situs in this state~~, less the inheritance taxes, if any, due this state, it being~~. It is the purpose and intent of this part to impose only ~~such~~ those additional taxes ~~hereunder as~~ that may be necessary to give this state the full benefit of the maximum tax credit allowable against the federal estate tax imposed with respect to a decedent's estate ~~which~~ that has a taxable situs in this state. If only a portion of a decedent's estate has a taxable situs in this state, ~~such~~ the maximum tax credit ~~shall~~ must be determined by multiplying the entire amount of the credit allowable against the federal estate tax for state death taxes by the percentage ~~which~~ that the value of the portion of the decedent's estate ~~which~~ that has a taxable situs in this state bears to the value of the entire estate."

Section 30. Section 72-16-907, MCA, is amended to read:

"72-16-907. Department to determine tax -- rehearing and appeal -- rulemaking. (1) (a) The department of revenue shall enter an order determining ~~such~~ the state estate tax and the amount ~~thereof~~ ~~so~~ due and payable.

~~(2)~~(b) Any person ~~in~~ with an interest aggrieved by ~~such~~ the department's determination ~~shall have the same right to apply for~~ may appeal the determination to district court ~~determination and of rehearing and appeal as is now provided for in the determination of inheritance taxes~~.

(2) The department shall adopt rules necessary for the administration and enforcement of this part."

Section 31. Section 72-16-909, MCA, is amended to read:

"72-16-909. When and where tax payable -- interest. (1) The estate tax ~~shall be~~ is payable to the county treasurer of the county in which ~~such~~ the estate is being probated ~~in the same manner provided for the payment of inheritance taxes in 72-16-441~~.

(2) If the tax is not paid within 18 months of the death of the decedent, interest must be charged and collected at the rate of 10% a year from the time that the tax accrued, unless because of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the tax is not determined and paid on time. Interest at the rate of 6% must be charged upon the amount of tax due from the time of accrual until the cause of the delay is removed, and after that time, interest at the rate of 10% must be charged.

(3) Litigation to defeat the payment of the tax is not necessary litigation.

(4) When permission has been granted to defer payment of tax under 72-16-910, interest must be charged at the rate of 6% after 1 year from the date of death until the date of payment."

Section 32. Section 72-16-1007, MCA, is amended to read:

"72-16-1007. ~~Applicability of other taxes -- rulemaking~~ Rulemaking. ~~The provisions of Title 72, chapter 16, parts 1 through 8, relating to the tax on inheritances and transfers, apply to 72-16-1001 through 72-16-1006 unless they are in conflict with this part.~~ The department shall adopt rules necessary for the administration and enforcement of this part."

Section 33. Section 80-12-305, MCA, is amended to read:

"**80-12-305. Tax exemption of bonds.** Bonds issued by the authority under this chapter and their transfer and income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, except for ~~inheritance,~~ estate~~, and gift~~ taxes. The authority is not required to pay recording or transfer fees or taxes on instruments recorded by it."

Section 34. Section 90-6-125, MCA, is amended to read:

"**90-6-125. Tax exemption of bonds.** Bonds, notes, or other obligations issued by the board under this part or by local housing authorities under Title 7, chapter 15, parts 21, 44, and 45, their transfer, and their income (including any profits made on their sale) ~~shall be~~ are free from taxation by the state or any political subdivision or other instrumentality of the state, ~~excepting inheritance,~~ except for estate~~, and gift~~ taxes. The board is not required to pay recording or transfer fees or taxes on instruments recorded by it."

NEW SECTION. **Section 35. Code commissioner instruction.** The code commissioner shall renumber 72-16-217 as an integral part of Title 50, chapter 15.

NEW SECTION. **Section 36. Repealer.** Sections 72-4-304, 72-14-303, 72-16-101, 72-16-102, 72-16-201, 72-16-203, 72-16-204, 72-16-205, 72-16-206, 72-16-207, 72-16-208, 72-16-209, 72-16-210, 72-16-211, 72-16-212, 72-16-213, 72-16-214, 72-16-216, 72-16-218, 72-16-301, 72-16-302, 72-16-303, 72-16-304, 72-16-305, 72-16-306, 72-16-307, 72-16-308, 72-16-311, 72-16-312, 72-16-313, 72-16-314, 72-16-315, 72-16-316, 72-16-317, 72-16-318, 72-16-319, 72-16-321, 72-16-322, 72-16-323, 72-16-331, 72-16-332, 72-16-333, 72-16-334, 72-16-335, 72-16-336, 72-16-337, 72-16-338, 72-16-339, 72-16-340, 72-16-341, 72-16-342, 72-16-343, 72-16-344, 72-16-345, 72-16-346, 72-16-347, 72-16-348, 72-16-349, 72-16-401, 72-16-402, 72-16-403, 72-16-411, 72-16-412, 72-16-413, 72-16-414, 72-16-415, 72-16-416, 72-16-417, 72-16-418, 72-16-419, 72-16-420, 72-16-421, 72-16-422, 72-16-423, 72-16-424, 72-16-425, 72-16-431, 72-16-432, 72-16-433, 72-16-434, 72-16-435, 72-16-436, 72-16-437, 72-16-438, 72-16-439, 72-16-440, 72-16-441, 72-16-442, 72-16-443, 72-16-445, 72-16-446, 72-16-447, 72-16-448, 72-16-449, 72-16-450, 72-16-451, 72-16-452, 72-16-453, 72-16-454, 72-16-455, 72-16-456, 72-16-457, 72-16-458, 72-16-459, 72-16-460, 72-16-461, 72-16-462, 72-16-463,

72-16-464, 72-16-465, 72-16-471, 72-16-472, 72-16-473, 72-16-474, 72-16-475, 72-16-476, 72-16-477, 72-16-478, 72-16-479, 72-16-480, 72-16-481, 72-16-482, 72-16-491, 72-16-492, 72-16-493, 72-16-504, 72-16-505, 72-16-701, 72-16-702, 72-16-703, 72-16-704, 72-16-705, 72-16-706, 72-16-801, 72-16-802, 72-16-803, 72-16-804, 72-16-805, and 72-16-902, MCA, are repealed.

NEW SECTION. **Section 37. Effective date.** This act is effective upon approval by the electorate.

NEW SECTION. **Section 38. Retroactive applicability.** This act applies retroactively, within the meaning of 1-2-109, to deaths occurring after December 31, 1999.

NEW SECTION. **Section 39. Submission to electorate.** This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2000 by printing on the ballot the full title of this act and the following:

[] FOR repealing state inheritance taxes.

[] AGAINST repealing state inheritance taxes.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on May 10, 2000 at 8:30 A.M., at DPHHS Auditorium.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: Rep. Scott J. Orr (R)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s): HB7, HB8
Executive Action: HB7, HB8

Tape 1, Side A

HEARING ON HB 7

Rep. Rick Jore, HD 73, opened the hearing on HB 7, "An Act Repealing State Inheritance Taxes; providing that state estate and generation-skipping taxes apply to the extent of the applicable federal credit for each tax, providing that the proposed act be submitted to the qualified electors of Montana . . ."

Proponents
Rep. Cindy Younkin, HD 28, explained her view on inheritance taxes.
David Casey, Rancher, Eastern Montana.

Opponents
Tom Bilodeau, MTA, Helena. Not a time or place to have this discussion.

Tape 1, Side B

Questions From the Committee
Rep. Raney asked clarification on federal taxes and state of Montana inheritance taxes.
Rep. Gillan, Younkin and Pavlovich continued the discussion. Rep. Gillan wondered how many cases were actually filed each year.

Chairman Hibbard stated he was a fourth generation on an historical ranch in Montana and was very interested in this bill.

Rep. Jore closed the hearing on HB 7.

Executive Action on HB 7

Rep. Fuchs moved HB 7 DO PASS.

Tape 2, Side A
Discussion continued. Jeff Martin, Legislative Fiscal Analyst, noted an error in the words that were to be stricken. Rep. Fuchs moved a conceptual amendment to fix the error. The conceptual amendment passed unanimously.

Rep. Fuchs moved HB 7 Do Pass As Amended. HB 7 passed 15 - 8 on a roll call vote.

Rep. Harper moved a draft resolution to be written to the federal government concerning the inheritance taxes. That resolution will be drafted and taken up during the session on the House floor. Rep. Harper moved that the committee approve drafting this resolution. The resolution passed 22 - 1.

HEARING ON HB 8

Rep. Jore opened the hearing on HB 8, 'An act phasing in a 20 percent reduction in income taxes by reducing taxes payable, before credits, by 5 percent each year for four consecutive years...'

Tape 2, Side B
Proponents
None.

Opponents
Tom Bilodeau, MTA.
Daniel Holter.

Questions From the Committee
None.

Rep. Jore closed the hearing on HB 8.

MINUTES

MONTANA SENATE
56th LEGISLATURE - SPECIAL SESSION

SELECT COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on May 11, 2000 at 3:00 P.M., in Room 225 of the Scott Hart Building.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Dorothy Eck (D)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis (R)
Sen. Bill Glaser (R)
Sen. Lorents Grosfield (R)
Sen. Walter McNutt (R)
Sen. Spook Stang (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJR 3; HB 7
Executive Action: HJR 3; HB 7

{Tape : 1; Side : A; Approx. Time Counter : 0.3}

HEARING ON HJR 3

Sponsor: REP. CHASE HIBBARD, HD 54, HELENA

Proponents: Jim Peterson, Montana Stock Growers Association
REP. CINDY YOUNKIN, Bozeman
Randy Johnson, Montana Grain Growers Association
Eric Feaver, MEA-MFT

Opponents: None.

Opening Statement by Sponsor:

REP. CHASE HIBBARD, HD 54, HELENA, said that there is a significant problem for Montana businesses, including farms and ranches, in transferring property from one generation to the next, and that the majority of the problem exists with federal estate tax. He said that often the inheritors of these properties are forced to sell in order to pay the estate taxes, and it was felt that we should send a strong, bipartisan message to Congress to see if we could impact the problem on the national level, and that is what this does.

{Tape : 1; Side : A; Approx. Time Counter : 4}

Proponents' Testimony:

Jim Peterson, Montana Stock Growers Association, said this is high on the priority list of the Association. He said this does have tremendous impact on the estates of ranch families when it passes from generation to generation, and it has prevented in some cases that passing from generation to generation because they could not pay the taxes and had to sell the property. He said it does change the fabric of the community and the state. He encouraged the committee to support this resolution.

REP. CINDY YOUNKIN, HD 28, BOZEMAN, said she is an attorney whose practice is mostly in estate planning and probate. She said many of the estates she has worked with had significant estate tax problems where there was no money to pay the estate taxes and the property had to be sold. If that property has to be sold, it goes to the highest bidder. If that highest bidder is not a wealthy out-of-stater, it is a subdivider. She said this is very, very important to anybody who owns property.

Randy Johnson, Montana Grain Growers Association, said they have standing resolutions that encourage the revision and improvement of the inheritance tax situation, and they would encourage the committee to support this resolution.

Eric Feaver, MEA-MFT, said they rise in support of this resolution, but at the same time he wished to make it clear to the committee that for years **MEA-MFT** has represented a large number of members who are the working capital for farm and ranch operations all over Montana, and they have heard over time how onerous the inheritance tax is and how difficult it is for people to keep their farms and ranches in their families. He said this will encourage Congress to look at this question.

Opponents' Testimony: None.

Questions from the Committee and Responses:

SEN. ELLINGSON asked if any ranch property that is transferred to a spouse incurs no estate tax at this point. **REP. HIBBARD** said that was correct. **SEN. ELLINGSON** then asked if there is currently a unified gift estate tax exemption of $750,000, and as a result of that exemption, any ranch property that is transferred to anyone but a spouse, that person would be able to receive the ranch property if it had a net estate value of under $750,000, and **REP. HIBBARD** said that is also correct.

SEN. ELLINGSON said, then, that the only times that the estate tax problems such are being discussed become an issue are those which are not between surviving spouses, nor are they with ranches and farms that have a value under $750,000. We are only discussing those that have a net value in excess of $750,000, and **REP. HIBBARD** said that was correct. **SEN. ELLINGSON** asked if it was a fact that the federal estate exemption is going to increase to $1.2 million over the next few years, and **REP. HIBBARD** said that was correct. He went on to use his personal situation as being an heir and fourth generation of a large Montana ranch to explain the impacts of estate taxes to Montana ranch families.

SEN. ELLINGSON asked the **Jeff Miller, Department of Revenue,** how many estate tax returns are filed each year that are in excess of $750,000 exemption. **Mr. Miller** said the Department receives approximately 4,000 to 5,000 inheritance tax returns per year,

and of those, 800 to 900 of them show a tax liability of either/or inheritance or estate tax.

SEN. ECK said this suggests that Congress change the federal estate tax substantially. She wondered what kind of changes might be made. **REP. HIBBARD** said this resolution is sufficiently broad that it is not narrowed to any specifics. He said if this resolution passes both houses and is signed by the Governor, he would like to put together a small bipartisan working group and get ideas from the Department of Revenue and others who have worked in this area for specifics.

SEN. DEVLIN said there had only been one little change in two places of this resolution, line 5 and line 22, where the word "significantly" was added.

SEN. ELLIS asked **REP. YOUNKIN** how this works for a family that has an estate tax liability. He asked her to suppose that there is a sale of an estate because the heirs can't pay the taxes, and the unsheltered value of the estate is $2 million and it sells for 10 to 25 times what it was purchased for. He asked if those heirs would owe a capital gains tax. **REP. YOUNKIN** said they would. **SEN. ELLIS** asked if that would be at 20 percent, and **REP. YOUNKIN** said that most of it would be at 20 percent. **SEN. ELLIS** asked what the rate was for the first dollar over and above the credit, and **REP. YOUNKIN** said it is 35 percent and goes up to 55 percent.

{Tape : 1; Side : A; Approx. Time Counter : 21.5}

Closing by the Sponsor:

REP. HIBBARD said he does feel that this is a rare opportunity to take a very strong message to Washington, and he believes that Montana can have some real impact and encouraged support.

{Tape : 1; Side : A; Approx. Time Counter : 23}

HEARING ON HB 7

Sponsor: **REP. CINDY YOUNKIN, HD 28, BOZEMAN**

Proponents: **None.**

Opponents: **Eric Feaver, MEA-MFT**

Opening Statement by Sponsor:

REP. CINDY YOUNKIN, HD 28, BOZEMAN, said again that she is a practicing attorney whose main practice is estate planning and probate work. She clarified that the difference between estate tax and inheritance tax is that the estate tax has to do with the size of your estate, and the Montana inheritance tax has nothing to do with the size of your estate, but who it goes to, and it is an unfair tax. She said this is a referendum which will go on the ballet in November. She encouraged the committee to allow the people of Montana to decide if they should impose this tax on themselves.

Proponents' Testimony: None.

Opponents' Testimony:

Eric Feaver, MEA-MFT, said he opposes this referendum. He said the legislature is the representative of the people and they should make tax policy without putting it before the people. He said the cost of this could be $12 million.

Questions from the Committee and Responses:

SEN. ECK said that when this kind of bill was considered previously, it ended up costing too much, but it dealt with protecting linear inheritors. She asked if the House would consider amendments rather than just repealing the inheritance tax. **REP. YOUNKIN** said the only amendment that was inquired about in the House Taxation Committee dealt with the effective date. She said right now it would be retroactively effective to December 31, 1999. **SEN. ECK** asked why this was that urgent that it is required to do it now rather than next session, and **REP. YOUNKIN** said that if the voters passed it in November, it would become effective as of December 31, 1999, so if they died after that 12/31/99 date, there would be no Montana inheritance tax on that estate. She said some of the impetus of doing this now is that it looks at economic development and tax issues. She said

this was passed out of the House in the last session, but it didn't make it out of the Senate.

SEN. DEPRATU said that the discussions around the estate tax and the inheritance tax assumed that the farms and ranches would be paid for at the time the death occurred, but quite often in the business field, there are mortgages or capital loans that are owing. He asked if there were any provisions that the amount of those payables would be deducted before the tax is calculated. **REP. YOUNKIN** said the Montana inheritance tax is actually based on the net of the estate.

SEN. COCCHIARELLA said she was concerned about the retroactive applicability date and wondered what the purpose was of making it retroactive. **REP. YOUNKIN** said she didn't know why it was made retroactive, but that for easier tax figuring, it needed to be at the end of a calendar year.

SEN. ELLIS asked **REP. YOUNKIN** to suppose that someone bought a property for $1.5 million and the appreciation doubled the value, but the owner had a $1 million mortgage on the property. He asked what that does to the tax consequences. **REP. YOUNKIN** said using that example, the net value would be $2 million. The capital gains would have to be paid on $1.5 million.

SEN. GLASER asked about stepchildren that were over 18 when the marriage took place and were previously not considered in the same standing as those that were under 18. He wondered if that situation was still viable. **REP. YOUNKIN** said there is a provision now that a stepchild is considered the same as a child, regardless of when the stepchild's relationship started.

SEN. STANG said he has supported removal of the inheritance tax, but he wondered about making this a referendum. **REP. YOUNKIN** said that if the legislature would take the responsibility and pass this, that would be desirable.

Closing by the Sponsor:

REP. YOUNKIN said there is a significant surplus presently and this would be a good time to pass this. She said it is not fair to make heirs pay taxes on what you've worked for your entire life and want to pass on. She said this is really a significant

tax on inflation. These properties are taxed through all the years and then the government comes after death and wants more. She encouraged passage of this resolution.

REP. YOUNKIN asked if either **SEN. GROSFIELD** or **SEN. DEVLIN** would carry it on the floor.

{Tape : 1; Side : A; Approx. Time Counter : 53.2}

EXECUTIVE ACTION ON HB 7

Motion: **SEN. EKEGREN moved that HB 7 BE CONCURRED IN.**

Discussion:

SEN. STANG said he has always supported repealing the inheritance tax, but he cannot vote for a referendum. He believes that this is something that the legislature should make this decision about and not make it a ballot issue.

SEN. ECK said she could not support this for the same reasons as mentioned by **SEN. STANG.** Also, she said it has a $12 million hit for each year, and she does not feel comfortable with that. She said she thinks it is irresponsible to deal with this at this time.

SEN. ELLIS said he also did not like putting a measure like this on the ballot. He said he understands that this is a great inequity in our tax system, but it benefits probably less than half of the 800 people that were cited by the Department of Revenue. He said he was going to vote against this measure.

SEN. DEVLIN said there are a lot of things that are voted on by the people, so it is not necessarily an uncommon thing.

SEN. GROSFIELD said he is not all that enamored with the whole ballot process, but if you think about a referendum from the legislature, that is authorized in our Constitution. He asked what that was there for, when should it be used. He said perhaps it should be used for an issue such as this that the legislature has tried time and time again to accomplish and has not succeeded.

SEN. DEPRATU said he felt like **SEN. GROSFIELD** does, that there is a reason that it is in the Constitution. It is something that has been put before the legislature quite often. He said his constituents have let him know that this is an unfair tax and should be removed. He said it should be passed out just the way it has come to this committee.

SEN. COCCHIARELLA said she believes in the concept of this legislation, but she also believes that this is not good special session, last-minute legislation. She suggested that this should be postponed and tabled and held for the next session.

Motion: **SEN. COCCHIARELLA moved that HB 7 BE TABLED.**

Vote: **Motion failed 7-5 with Devlin, Depratu, Cole, Ekegren, Glaser, Grosfield and McNutt voting no.** (Roll call vote)

Vote: **To concur in HB 7: Motion passed 7-5, with Cocchiarella, Eck, Ellingson, Ellis and Stang voting no.**

EXECUTIVE ACTION ON HJR 3

Motion: **SEN. STANG moved that HJR 3 BE CONCURRED IN.**

Motion: SEN. ELLINGSON moved an amendment at line 23, after the words "transfer of," strike "family business including," and leave "farms and ranches."

SEN. ELLINGSON said that he supported completely the sponsor's concern about transfers of farms and ranches in the state of Montana. He said Montana benefits enormously from maintaining intact the farms and ranches that have been part of the social fabric of the state of Montana for well over a century. He said he thinks that this resolution is aimed at farms and ranches for the most part, and his amendment would make it completely aimed at farms and ranches. He said the purpose of his amendment is to clarify what he thinks is the intent of the sponsor. He said he would fully support this resolution with this amendment.

Discussion:

SEN. GLASER said he could not support this amendment because he believes that business owners and business families should be treated the same way as farms and ranches.

SEN. DEPRATU said he would have to speak against the amendment and the logic that Montana main street businesses don't have the same kind of impacts on our society that the family farms do. They are all equally important to Montana.

SEN. MCNUTT said he is one of those businesses, and he said this amendment makes him feel that business is some kind of second-class citizen, and he will not support it.

SEN. EKEGREN said he agreed with **SEN. MCNUTT**. He said the assets of a business are just as important to that family as the assets of a farm and ranch, and to try to break out the differences between the ag community and the business community is an unfair assumption.

SEN. ELLINGSON said the Senators had raised good and legitimate questions, and he respected their point of view. He said he is a main street businessman. He said he is not only a lawyer but he owns an office building in Missoula, and he does not mind the idea of paying the inheritance taxes on that property for a couple of reasons: 1) that he is in a different category than the owners of the ranches and farms in this state, and the fact that he owns property does not make him equal to the owners of farms and ranches in this state, and 2) he does not feel he is being unfair to his family by proposing an amendment like this which diminishes their return.

Vote: **Motion failed 9-3, with Devlin, Depratu, Cocchiarella, Cole, Ekegren, Ellis, Glaser, Grosfield and McNutt voting no.** (Roll call vote)

Vote on HJR 3: Vote: **Motion carried 11-1 with Ellingson voting no.**

SEN. ELLIS will carry on the floor.

FURTHER EXECUTIVE ACTION ON HB 7

Motion: **SEN. COCCHIARELLA moved TO RECONSIDER THE ACTION ON HB 7 FOR THE PURPOSES OF AN AMENDMENT.**

SEN. COCCHIARELLA said she thinks that the present effective date presents a conflict if it becomes effective retroactively to January 1, 1999, and anything happens to any of the legislators

between now and when it goes on the ballot, or between now and when the legislature comes back. She said the legislature has put themselves in an unethical position that says, "We voted for potentially a tax windfall for some of us," and she has a concern about that.

Discussion:

SEN. DEVLIN said if we amend this, it will have to go back to the House and they are in the process of finishing up at this time. He said it had been discussed during the hearing, and he did not believe that it is an insurmountable problem for the Department to say, "Hey, we shouldn't have charged you that," and give it back.

Vote: Motion carried 8-4, with Devlin, Depratu, Cole and Glaser voting no. (Roll call vote)

Motion: SEN. COCCHIARELLA moved to amend HB 4 by changing the effective date to January 1, 2001.

Discussion:

SEN. GROSFIELD pointed out that the bill on the last page, line 2, says "deaths occurring after December 31, 1999," and he wondered if it should be December 31, 2000.

Lee Heiman, Legislative Staff, said that if the 1999 is replaced with 2000, the date becomes January 1, 2001.

SEN. COCCHIARELLA said she would change her amendment to December 31, 2000.

Vote: **Motion carried 8-4 with Devlin, Depratu, Cole and Glaser voting no.** (Roll call vote)

Motion: **SEN. STANG moved that the referendum be stripped from HB 7 and make the bill applicable whenever the next tax year starts so it would be similar to the bill that was in the last session.**

Discussion:

SEN. DEVLIN said he would resist that motion simply because he was not sure that the House would accept it without a vote of the people. He said there are a lot of things that are put on ballot.

SEN. STANG said he has not supported attempts to put things on the ballot because sometimes it is too easy to put things on the ballot and people don't know what they are voting for. He said he believes that the House would support repealing the inheritance tax.

Vote: **Motion failed 7-5, with Devlin, Depratu, Cole, Ekegren, Glaser, Grosfield and McNutt voting no.** (Roll call vote)

Motion: **SEN. MCNUTT moved that HB 7 BE CONCURRED IN AS AMENDED.**

Vote: **Motion carried 7-5, with Cocchiarella, Eck, Ellingson, Ellis and Stang voting no.**

ADJOURNMENT

Adjournment: 1 A.M.

SEN. GERRY DEVLIN, Chairman

SANDRA L. BARNES, Secretary

GD/slb